

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2551

IN THE MATTER OF:

Served May 1, 1984

Application of DAVID C. PEARSON,)
Trading as E & H TRANSPORTATION)
COMPANY, for Temporary Authority to)
Conduct Special Operations --)
Lorton, Va.)

Case No. AP-84-16

By application filed March 26, 1984, David C. Pearson, trading as E & H Transportation Company, seeks temporary authority to transport passengers in special operations from Washington, D.C., to the District of Columbia Department of Corrections facility at Lorton, Va., and return.

The proposed service would be operated in three vans serving the following points in the District of Columbia:

1. Georgia Avenue and Kennedy Street, N.W.
2. Georgia Avenue and Florida Avenue, N.W.
3. Florida Avenue and Benning Road, N.E.
4. Benning Road and East Capitol Street, N.E.
5. 12th Street and Rhode Island Avenue, N.E.
6. Kenilworth Avenue and Eastern Avenue, N.E.
7. Minnesota Avenue and Benning Road, S.E.
8. Alabama Avenue and Stanton Road, S.E.
9. Alabama Avenue and 23rd Street, S.E.
10. Martin Luther King Avenue and Good Hope Road, S.E.
11. Good Hope Road and Alabama Avenue, S.E.
12. Potomac Avenue and Pennsylvania Avenue, S.E.

One van would serve points 1 through 4, another points 5 through 8, and another points 9 through 12. Each van would depart at 5 p.m. weekdays, and return from Lorton at 9 p.m. On Saturdays, Sundays and holidays, each van would start at 9 a.m., leaving Lorton at 3 p.m. The proposed round-trip fare is \$6 per person.

Mr. Pearson projects gross annual revenues of \$81,536 from this service and expenses of \$75,628, including drivers' wages, vehicle-related expenses and a prorated portion of the company's overhead. 1/

Applicant submits no support for the application other than his own statement of immediate and urgent need. Applicant states that no carrier service is available to Lorton from the neighborhoods and points he proposes to serve, that there is an urgent need for the direct, convenient, scheduled service he proposes, and that many individuals are deterred from visiting friends and relatives at the Lorton facility because of the lack of such service.

Applicant acknowledges the existence of Metrobus service 2/ to Lorton from the downtown area, but distinguishes his proposed service on the basis that Metrobus does not serve the neighborhoods, and applicant does not propose to serve the downtown area.

At the time this application was filed, Mr. Pearson was unaware of applications filed by Mr. Frank J. Utley, trading as Utley's Transportation Service, in Case Nos. AP-84-08 and AP-84-09 to provide service between Washington, D.C., and the Lorton facility. Accordingly, Mr. Pearson stated that, other than Metrobus, no other carrier had an interest in such service. Upon filing, Mr. Pearson was provided with a copy of Order No. 2540 scheduling Mr. Utley's applications for public hearing, and on March 28, 1984, Mr. Utley was sent a copy of a letter describing Mr. Pearson's application, receipt of which Mr. Utley acknowledged by telephone on March 30.

In April 1980 Mr. Pearson sought and was granted a certificate of public convenience and necessity in Case No. AP-80-12 to provide a similar service to Lorton. 3/ That application was supported by the District of Columbia Department of Transportation (D.C. DOT), and Mr. Pearson submitted a copy of D.C. DOT's 1980 statement of support as part of his current application. Mr. Pearson encountered equipment financing problems, was unable to commence service, and the grant of authority was ultimately rescinded. As part of his current application, Mr. Pearson has submitted correspondence indicating that

1/ Applicant already holds WMATC Certificate No. 53 authorizing the non-emergency transportation of non-ambulatory passengers for the District of Columbia Department of Human Services and for the general public.

2/ Metrobus service is provided under contract with the District of Columbia. See discussion of District of Columbia/Metrobus service in Order No. 2540, served March 23, 1984, in Case Nos. AP-84-08 and AP-84-09, which is incorporated by reference herein.

3/ See Order No. 2114, served May 27, 1980.

the problem resulted from incorrect information entered on his credit record. The correspondence further indicates that, with the aid of counsel, it took until July 1981 to have the error corrected.

Because City Administrator Thomas M. Downs had opposed Mr. Utley's applications, establishing the City as a formal party in those cases, a letter describing Mr. Pearson's application was delivered to the City Administrator's office on March 28.

On April 3, the City Administrator filed a protest to Mr. Pearson's application, stating that the City has a substantial interest in the application; that on March 29 the City had added a third bus for the peak visiting days of Tuesday, Thursday, Saturday and Sunday; and that the 11th and G, N.W., departure point for the City's service was chosen because it provides accessibility to other parts of the city by Metrorail and Metrobus routes. The City further states that on March 26 it initiated an investigation of the possibility of starting its service at other points in the District of Columbia and will conduct a survey among Lorton visitors to determine whether there are more convenient terminal locations.

In order to grant temporary authority we must find an immediate and urgent need for service and no carrier service capable of meeting that need. 4/

The City not only continues to assert its commitment to underwriting 5/ whatever level of Metrobus service is necessary to meet the demand imposed by visitors to Lorton, but also continues to support that assertion with action. Since we issued our orders on March 23 scheduling Mr. Utley's applications for hearing, the City has added more buses to the Lorton service and is investigating the need for additional terminal locations.

Even if it were possible to distinguish Mr. Pearson's proposed service from the City's on the basis of points served, Mr. Pearson has submitted absolutely no evidence that there is any need to serve the points he proposes, nor, for that matter, any evidence that there is any need for service beyond what the City provides. Indeed, Mr. Pearson has not submitted public testimony at all.

On this record we cannot find that the Compact criteria for temporary authority have been met. Further, there is no evidence in

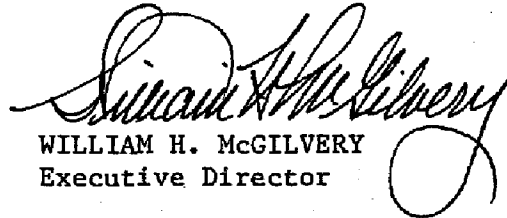
4/ See Compact, Title II, Article XII, Section 4(d)(3).

5/ The City advises that its subsidy payments for this service reached \$21,000 in calendar year 1983. This, of course, was before circumstances stimulated the doubling -- at times tripling -- of 1983 service levels.

this record that warrants our setting this application for hearing. Of course, should Mr. Pearson file an application for a certificate of public convenience and necessity, the Compact would require a public hearing on that matter.

THEREFORE, IT IS ORDERED that the application in Case No. AP-84-16 of David C. Pearson, trading as E & H Transportation Company, for temporary authority is hereby denied.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director